

Housing and Urban Development

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would be a foreclosure of the delinquent mortgage if the emergency mortgage relief were not provided to the homeowner;

(3) The homeowner is in need of such emergency assistance and the mortgagee has indicated to the homeowner its intention to foreclose on the delinquent mortgage; and

(4) The first disbursement of the principal amount of the emergency mortgage relief loan or advance of credit has been paid or credited to the homeowner's account with the servicing institution.

§2700.305 Conditions of insurance.

(a) When the requirements of this part have been met, the lender's mortgage insurance coverage under its mortgage insurance contract will apply to a particular loan as of the date of closing, if the lender has not exceeded the mortgage insurance authority allocation which HUD has given the lender.

(b) From the effective date of the emergency mortgage relief loan or advance of credit until the termination of the insurance with respect to that loan, the lender shall be bound by the provisions of this part as such provisions relate to the emergency mortgage relief loan or advance of credit.

§2700.310 Fees.

(a) The lender may collect from the homeowner during the year following the origination of the emergency mortgage relief loan or advance of credit the following fees or charges in conjunction with providing the emergency mortgage relief loan or advance of credit:

(1) A charge to compensate the lender for expenses incurred in originating and closing the emergency relief loan, including preparation of a note, loan agreement, if any, and a mortgage in a form satisfactory for recordation, the total charge not to exceed such amount as specified by HUD;

(2) Actual amounts charged by State or local governments or government officials for recording fees and recording taxes or other charges incident to making the emergency relief loan or advance of credit;

(3) An amount equal to the annual premium for flood insurance required

by §2700.101(a)(4) (the lender shall pay the homeowner's flood insurance premium for that year to the extent it collects such an amount); and

(4) An amount equal to the annual mortgage insurance premium required under §2700.315.

(b) Subsequent to the year following the origination of the emergency mortgage relief loan or advance of credit and up to the termination of mortgage insurance under §2700.325, the lender may collect from the homeowner the following fees and charges in connection with the emergency relief loan: An amount equal to the mortgage insurance premium required under §2700.315.

§2700.315 Insurance premium.

(a) At such times as may be prescribed by HUD, the participating lender shall pay to HUD a mortgage insurance premium equal to one-half of one percent of the average outstanding balance of the emergency mortgage relief loan or advance of credit, during the previous calendar year, of all emergency mortgage relief loans or advances of credit that the lender held or serviced during that period pursuant to this part.

(b) With respect to the payment provided for in paragraph (a) of this section, the lender shall submit a breakdown of the mortgage insurance premium in the form prescribed by HUD.

(c) If a mortgage securing an emergency mortgage relief loan or advance of credit is sold, assigned, or pledged pursuant to §2700.350, any adjustments of the mortgage insurance premium already paid in connection with a mortgage securing an emergency mortgage relief loan or advance of credit shall be made by and between the lenders, except that any unpaid installments of the mortgage insurance premium shall be paid to HUD by the purchasing lender.

(d) There shall be no refund or abatement of any portion of the insurance premium except when the mortgage insurance premium relates to an emergency mortgage relief loan or advance of credit found to be ineligible. However, no refund shall be made unless a claim is denied by HUD or the ineligibility is reported by the lender promptly upon discovery and an application

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for refund is made. In no event shall charges be refunded when the application for refund is not made until after the emergency mortgage relief loan or advance of credit is paid in full.

§ 2700.320 Servicing.

Servicing functions for the emergency mortgage relief loan or advance of credit during the period that the emergency loan or advance is insured shall be performed by the lender or the servicing institution acting for the lender. The lender is responsible for proper servicing, even though the actual servicing is not performed by the lender.

§ 2700.325 Termination of mortgage insurance.

The mortgage insurance coverage and the insured lender's obligation to remit mortgage insurance premiums to HUD with respect to an emergency mortgage relief loan or advance of credit shall be terminated upon whichever of the following first occurs:

(a) The emergency mortgage relief loan or advance of credit is paid in full;

(b) The lender acquires the mortgaged property securing the emergency mortgage relief loan or advance of credit and notifies HUD that no claim for insurance benefits has been or will be made;

(c) The homeowner and the lender jointly request termination; or

(d) The lender files an insurance claim pursuant to § 2700.335.

§ 2700.330 Default.

(a) If the homeowner fails to make a scheduled payment or perform any other obligation required for the type of emergency assistance provided under this part, the homeowner shall be deemed to be in default.

(b) For purposes of this subpart, the date of default shall be the earliest of:

(1) 30 days after the first day the homeowner is delinquent on the mortgage securing the emergency mortgage relief loan or advance of credit, if the delinquency remains uncorrected;

(2) The date the property securing the emergency mortgage relief loan or advance of credit is sold before full repayment of the emergency loan or advance of credit; and

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(3) The date a lien superior to that securing the emergency mortgage relief loan or advance of credit is foreclosed.

(c) If, after default and prior to the foreclosure of the mortgage securing the emergency mortgage relief loan or advance of credit, the homeowner cures the default, the emergency loan or advance of credit shall be treated as if a default had not occurred, provided the homeowner pays the lender for any expenses the lender incurred in connection with the lender's attempt to collect on the emergency mortgage relief loan or advance of credit.

§ 2700.335 Claims.

(a) Claims for mortgage insurance for reimbursement for loss on an emergency mortgage relief loan or advance of credit shall be made in such form and provide such information as specified by HUD.

(b) Claims may be filed upon the homeowner's default on the emergency mortgage relief loan or advance of credit.

(c) When the homeowner defaults on the emergency mortgage relief loan or advance of credit, the lender may elect to:

(1) Proceed against the mortgage securing the emergency mortgage relief loan or advance of credit or attempt to collect on the note and then make a claim under its insurance contract if there is any net loss, or

(2) Make a claim under its mortgage insurance contract without proceeding against the security or the note.

(d) Except as may be otherwise specified by HUD, mortgage insurance claims shall be filed on the last working day of the month, no later than 90 days after the date of default, unless the lender proceeds against the mortgage securing the emergency relief loan or advance of credit, in which case the filing shall be no later than one year after the date of default, or such other time period as approved by HUD. If at the time of default or at any time subsequent to the default, a person primarily or secondarily liable for the repayment of a loan is a person in "military service", as such term is defined in the Servicemembers Civil Relief Act